

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:22-cr-14

vs.

GOVERNMENT'S INITIAL PRETRIAL  
CONFERENCE SUMMARY STATEMENT

GARDEN BAY FISHERIES, LLC, et. al.

Defendants. \_\_\_\_\_/

**I. DISCOVERY**

**A. Statements of Defendant**

1. Oral Statements [Rule 16(a)(1)(A)]

- ☐ There are no written records of oral statements or other oral statements as defined in Rule 16(a)(1)(A).
- ☒ There are the following written records of oral statements: statements made by James and Michael Hermes to USFWS agents on 11/5/14, 1/9/19, 6/17/21, and 6/28/21.
- ☐ has been disclosed to defense counsel
- ☒ will be disclosed to defense counsel by August 19, 2022.

2. Written or Recorded Statements [Rule 16(a)(1)(B)]

- ☐ There are no written or recorded statements or grand jury testimony of defendant.
- ☒ There are the following written or recorded statements or grand jury testimony: recorded statements made by James Hermes to USFWS agents on 11/5/14 and 1/9/19; recorded statements made by Michael Hermes to USFWS agents on 1/9/19.
- All written or recorded statements
- ☐ have been disclosed to defense counsel
- ☒ will be disclosed to defense counsel by August 19, 2022.

**B. Defendant's Prior Record [Rule 16(a)(1)(D)]**

- ☒ The government has made due inquiry and is not aware of any prior criminal record.
- ☐ The government has disclosed defendant's prior criminal history.
- ☐ The government is now making inquiry into defendant's prior criminal history. The results will be disclosed to defense counsel upon receipt.

C. Documents and Tangible Objects [Rule 16(a)(1)(E)]

- ☐ The government has no documents, tangible objects, or physical evidence required to be disclosed.
- ☒ The government has the following documents, tangible objects, and physical evidence:
- ☐ Controlled Substances:
- ☐ Drug Paraphernalia:
- ☒ Records: 1) Garden Bay Fisheries purchase and sales receipts, wholesale reports, bank records, and miscellaneous business records (e.g., freezer logs, sales ledgers, sales notes); Jensen fisheries records, including sales receipts, fishing records, vessel GPS data, and company bank records; 3) Sault Ste. Marie Tribal records, including tribal enrollment records, fishing license and vessel registration, and monthly catch reports.
- ☐ Drug Records:
- ☐ Firearms:
- ☐ Inventory (attached)
- ☒ Other: Surveillance photos, search warrant diagrams and photos.
- ☒ The government voluntarily notifies the defendant of the following search warrants issued and the warrant returns:
- ☐ State:
- ☒ Federal: 2:19-mj-01 re: F/V J.R. Jensen; 2:19-mj-02 re: Big Bay de Noc Fisheries
- ☐ They have been made available for inspection and copying by defense counsel.
- ☒ Defense counsel should make arrangements with SA Douglas Ault, Special Agent, USFWS.

D. Reports of Examinations and Tests [Rule 16(a)(1)(F)]

- ☒ The government has no reports of examinations or tests required to be disclosed by Rule 16.
- ☐ The government has or expects to have reports of the following examinations and tests:
- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Drug Analysis                           | <input type="checkbox"/> Handwriting    | <input type="checkbox"/> Fingerprints    |
| <input type="checkbox"/> DNA                                     | <input type="checkbox"/> Firearms/Nexus | <input type="checkbox"/> Gun Operability |
| <input type="checkbox"/> Computer Forensics/cell phone forensics | <input type="checkbox"/> Other          |  |

E. Reciprocal Discovery

- ☒ The government seeks reciprocal discovery.

F. Notice Under FRE 404(b)

- ☐ The government does not presently intend to introduce 404(b) evidence.
- ☐ The government does presently intend to introduce the following 404(b) evidence:
- ☒ The government will provide pretrial notice of 404(b) evidence by: one month prior to trial.

G. Other Discovery Matters: None.

**II. TRIAL**

- A. The government requests a ☒ jury ☐ non-jury trial.
- B. Length of trial excluding jury selection is estimated at 2-3 days.

**III. MISCELLANEOUS**

- ☐ This case may be appropriate for expedited resolution.
- ☒ The government is unaware at this time of any known conflict with defendant's representation by counsel. The United States will immediately advise counsel if any such conflict becomes known.
- ☐ The government is aware of the following potential conflict(s):
- ☒ Government's plea negotiation policy: Plea agreement, if any, must be signed and filed at least 30 days in advance of trial or before trial documents are due to be filed, whichever is the earlier deadline.

Date: August 11, 2022

Paul D. Lochner  
Assistant United States Attorney